

## **REMARKS**

The Office Action of August 30, 2006 has been received and carefully reviewed. Applicant notes with appreciation the indication in the Office Action that claims 19-22 are allowed. The Office Action rejects claims 1-18 as obvious with respect to Haymes 6,751,443 in view of a new reference Souissi 6,298,233. Applicants respectfully request reconsideration of rejected claims 1-18 in view of the above amendments and the following remarks.

### **I. REJECTION OF CLAIMS 1-18 UNDER 35 U.S.C. § 103**

The Office Action rejected claims 1-18 as being obvious under 35 U.S.C. § 103 in view of Haymes 6,751,443 in view of Souissi 6,298,233. The rejected claims 1-18 include independent claims 1 and 12. Claim 1 has been amended above to recite that position data is sent by the mobile station when the mobile station determines that a received pilot strength measurement message is less than a predetermined threshold. The method of independent claim 12 recites that the position data is sent by the powered up mobile station when the mobile station determines that a received pilot strength measurement message is less than a predetermined threshold.

The primary reference Haymes fails to teach or fairly suggest position data being sent by a mobile in response to or when the mobile determines that a received pilot strength measurement message is less than a predetermined threshold, as acknowledged in the current and previous Office Actions and as discussed in Applicants' previous responses. The Souissi patent 6,298,233 appears to teach a mobile (portable subscriber unit 122) that constructs a "communication difficulty report" when a communication quality parameter reaches a threshold, with the report including the geographic location of the unit when the threshold was reached. However, the portable subscriber unit 122 of Souissi does not appear to send the report when the parameter reaches the threshold, but rather in response to a request from the controller 112 (see Souissi col. 2, lines 22-27; col. 6, lines 27-30 and 38-51; Fig. 5, col. 7, lines 14-22).

Furthermore, the portable unit 122 of Souissi preferably timestamps the communication difficulty (col. 6, lines 52-54) since the position information is not sent to the controller in Souissi in real time. Moreover, Souissi states that the controller 112 preferably requests the report from the portable unit 122 during off-peak times so that

additional traffic will not be created during peak traffic hours (col. 7, lines 17-19). Thus, the teachings of Souissi as a whole do not suggest a mobile sending position data when it determines that a received pilot strength measurement message is less than a predetermined threshold as in claims 1 and 12. In this regard, Applicants note the text at col. 7, lines 26-32 stating that "alternatively, the portable subscriber unit 122 can determine that the record of communication difficulty reports contains a number of communication difficulty reports that has reached a predetermined maximum. In response, the portable subscriber unit 122 then communicates the record of communication difficulty reports to the fixed portion." However, there appears to be no teaching or suggestion in Souissi for the portable unit 122 sending a single report without waiting for a request from the controller 112 or waiting for construction of a predetermined maximum number of communication difficulty reports.

Consequently, the combination of Haymes with Souissi fails to teach or suggest all the features of the independent claims 1 and 12, and a person of ordinary skill in the art, upon viewing the Souissi reference in its entirety, would conclude that Souissi teaches away from any modification thereof to make the portable subscriber unit 122 send difficulty reports individually when the parameter reaches the threshold. As a result, the claims 1-18 are now believed to be patentably distinct from the proposed combination of Haymes with Souissi and Applicants respectfully request reconsideration and withdrawal of the rejections thereof under 35 U.S.C. § 103.

**CONCLUSION**

For at least the above reasons, the currently pending claims 1-22 are believed to be in condition for allowance and notice thereof is requested.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 06-0308, LUTZ200216.

Respectfully submitted,

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